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C O N F I D E N T I A L SECTION 01 OF 03 JERUSALEM 000136

SIPDIS

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SUBJECT: JERUSALEM CONSTRUCTION PERMIT STATISTICS
UNDERSCORE DISPARITY IN LEGAL HOMEBUILDING

REF: A. JERUSALEM 0032

1B. 09 JERUSALEM 2257
1C. 09 JERUSALEM 0501

Classified By: CG Daniel Rubinstein, per reasons
1.4 (b) and (d).

11. (SBU) Summary: Statistics released by the Municipality of Jerusalem reveal an eight-to-one disparity in application rates for new construction permits between the city's overwhelmingly Israeli West and its majority-Arab East. This disparity, which is consistent with previous years, persists despite East Jerusalem's overall larger population and higher population growth rates. NGO sources described a number of structural barriers that deter East Jerusalem's Arab residents from applying for construction permits, including planning and zoning (residential construction is allowed in only 13 percent of East Jerusalem), height restrictions (which reduce the number of units across which the cost of a permit can be shared), and permit requirements which are harder to satisfy in Arab neighborhoods. Municipality sources told Post that Mayor Barkat remains committed to equal treatment of all the city's residents. NGO sources claim the municipality is fully aware of the impact of the permitting process on construction in Arab neighborhoods.
End Summary.

2009 STATISTICS ILLUSTRATE
DISPARITY IN PERMIT ISSUANCE

12. (SBU) On January 5, the municipality published annual statistics for the number of construction permits requested and approved in 2009. The numbers showed that the roughly 318,000 residents of (overwhelmingly Israeli) West Jerusalem applied for 1,950 permits in 2009, of which 1,236 (63 percent) were granted. Residents of East Jerusalem, which has an Israeli population of around 182,000 and an Arab population of around 260,000, applied for only 244 construction permits, of which 133 (55 percent) were granted.

These figures are slightly lower than in previous years (296 permits applied for in East Jerusalem in 2008; 305 in 2007) and include permits issued to both East Jerusalem ID holders and Israeli citizens.

13. (C) NGO contacts note that the wide disparity in the number of construction permit applications from West and East Jerusalemites is particularly striking in light of overall demographic trends. According to municipal statistics, between 2001 and 2007, Jerusalem's Jewish population grew by 1.3 percent annually, while its Arab population (almost all of which is resident in East Jerusalem) grew over twice as fast (3 percent annually). If current trends continue, municipality estimates suggest that by 2020, Arab residents will account for 40 percent of Jerusalem's population,

compared to 35 percent today. In conversations with Post, Moaz Zatari of the NGO al-Maqdese estimated that Arab population growth will require construction of 85,000 new housing units over that period. Despite these trends and existing overcrowding in Arab neighborhoods, only 13 percent of new construction permit applications were filed by East Jerusalem residents last year -- satisfying only a fraction of projected demand.

WHY DO SO FEW ARAB RESIDENTS
APPLY FOR BUILDING PERMITS?

¶4. (SBU) NGO contacts point to a number of structural impediments to legal construction in East Jerusalem's Arab neighborhoods. These impediments dissuade Arab residents from applying for legal permission to build. Among the factors they identified:

-- (SBU) LESS THAN THIRTEEN PERCENT OF EAST JERUSALEM IS ZONED FOR RESIDENTIAL CONSTRUCTION: Applicants for construction permits are required to demonstrate that the property on which they intend to build is zoned for its intended use, according to NGO contacts. Zoning is determined by municipality-approved "master plans" for the area in question. According to UN Office for the Coordination of Humanitarian Affairs (UN OCHA) statistics, master plans have not, since the 1967 war, been not drawn up for approximately 30 percent of East Jerusalem. Consequently, property owners in those areas have no legal basis upon which to apply for construction permits, since the land remains unzoned. According to UN OCHA, roughly another

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third of East Jerusalem's land has been expropriated by the GOI for construction of Israeli housing since 1967, and an additional 22 percent is zoned for parkland or infrastructure. As a result, NGO and UN surveys estimate that only 7-13 percent of East Jerusalem is currently zoned for Arab residential construction. This land lies primarily in already-overcrowded neighborhoods subject to two-story height limits, limiting the possibility of new construction, NGO sources say.

-- (C) MUNICIPALITY NOT ALLOWING NEW PLANS: Attempts by East Jerusalem's Arab communities to develop plans which would re-zone existing neighborhoods for residential use have been largely unsuccessful. A "Town Planning Scheme" submitted by the Arab residents of al-Walaja in 2006, which would have retroactively legalized homes standing inside Jerusalem's current municipal borders, was rejected in 2009 on the grounds that the area was zoned as "green space" in the draft Jerusalem Master Plan proposed by Jerusalem Mayor Nir Barkat (Ref B). A Town Planning Scheme for the East Jerusalem neighborhood of al-Bustan, in Silwan, was rejected in February 2009 for similar reasons (Ref C). "The municipality is freezing small plans until the Master Plan is complete, and the Ministry of Interior is freezing (Mayor Barkat's) Master Plan, so development on the ground is frozen," said Tali Nir, a lawyer with the Association for Civil Rights in Israel (ACRI).

-- (C) BARRIERS TO RETROACTIVE LEGALIZATION: Retroactive legalization of residential properties built on unzoned land in Arab neighborhoods of East Jerusalem is very difficult, according to NGO contacts. Permit applicants are required to submit a development plan encompassing no less than 10 dunams of land (roughly 2.5 acres), commission a state-recognized land survey of the properties included, and submit a neighborhood zoning proposal. As a result, Efrat Cohen-Bar of NGO Bimkom noted, "development (of one property) must be organized by all the existing residents." In the best case, the process requires more than ten years, he added.

-- (SBU) NEW PERMIT CONDITIONS DIFFICULT TO SATISFY: Applicants for construction permits must demonstrate to the

municipality an ability to connect the proposed building to municipal services, including sewage, electricity, and roads.

The comparatively poor infrastructure in Arab neighborhoods of East Jerusalem, which have traditionally received an average of 10 percent of municipal spending annually (despite serving 35 percent of Jerusalem's population), renders this task more challenging in East Jerusalem's Arab neighborhoods than in more prosperous (and better-developed) West Jerusalem. According to NGO Ir Amim, East Jerusalem currently suffers from a shortage of 70 kilometers of sewage pipes, and the septic tanks used in most Arab neighborhoods do not meet the standards of the Israeli Ministries of Environment and Health. Applicants are required to reserve land for parking spaces in plans for new construction, a logistical impossibility in many parts of densely-constructed and overcrowded Silwan (population approximately 40,000), which is built on a steep hillside.

-- (C) CHALLENGES TO PROVING LAND OWNERSHIP: Ninety-three percent of land in Israel belongs to the state, but land ownership issues in East Jerusalem are more complex. Following the Israeli occupation of East Jerusalem in 1967, Bimkom's Cohen-Bar told Post, the GOI failed to institute a comprehensive land registration scheme in order to document East Jerusalem property ownership. Nonetheless, residents are generally required to provide proof of ownership as part of the permitting process. Cohen-Bar said that the municipality "passes this problem on to the residents" in the form of a complex process of proving ownership. This process dissuades many of Jerusalem's Arab residents from even initiating the permit application process. He noted that applicants are required, at their own cost, to prepare a "Plan for Registration Purposes" and submit it to the Israel Mapping Center, as well as to apply for land registration separately with the Land Registrar. Ir Amim's Sarah Kreimer claimed that many of East Jerusalem's Arab residents continue to fear that the permit application process could lead the GOI to confiscate their land under the Absentee Property Act (even though the GOI has not widely applied this law in Jerusalem since 2005).

-- (SBU) HARDER TO SHARE COST OF PERMITS IN ARAB NEIGHBORHOODS: According to Internal Displacement Monitoring Centre statistics, Jerusalem zoning regulations permit, on average, the construction of six housing units per dunam of

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land (approximately 1/4 acre) in West Jerusalem, versus only two units per dunam in Arab neighborhoods of East Jerusalem. (In many Israeli neighborhoods of East Jerusalem, such as Har Homa, building is permitted to a height of eight stories or more.) Since the cost of a construction permit is fixed at roughly USD 25,000 in either case, the result is a significant disparity in the cost to individual Arab residents of the city, who cannot spread the bill across multiple units. Arab residents of East Jerusalem earn significantly less than other Jerusalem residents (NGO B'Tselem estimates that 67 percent of Arab families in Jerusalem live below the poverty line), compounding the problem further.

NGOS AND ACTIVISTS PORTRAY BARRIERS AS DELIBERATE POLICY

15. (C) A January 12 statement by Jerusalem Mayor Nir Barkat that Jerusalem's Arab population constituted a "strategic threat to Jerusalem" was widely covered in the Israeli press, and attracted critics who argued that Barkat's statement represented proof that the municipality was engaged in a deliberate attempt to limit Arab population growth in Jerusalem. Municipal officials defended the Mayor's statement in conversations with Post. Barkat spokesman Stephan Miller said, "Barkat believes that Jerusalem should remain a city with a Jewish majority," but added, "the Mayor remains committed to treating all residents equally."

¶6. (SBU) NGO contacts argued otherwise, claiming that municipal officials fully understand the impact of a difficult permitting process on construction in Arab neighborhoods. Several activists cited Barkat's comment as proof that the Mayor's repeated messages casting Jerusalem as a "free market" housing area (in which Israelis and Arabs are able to choose their residences at will) masked an underlying policy of deliberate discrimination intended to encourage Arab emigration to the West Bank. These contacts noted that residency in many Israeli neighborhoods of East Jerusalem is not a legal option for the vast majority of Arab residents who do not have Israeli citizenship, due to GOI legal restrictions on the leasing of "state land" expropriated by the GOI.

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